Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade

Vol. 16 NOVEMBER 3, 1982 No. 44

This issue contains

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

The abstracts, rulings, and notices which are issued weekly by the U.S. Customs Service are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Logistics Management Division, Washington, D.C. 20229, of any such errors in order that corrections may be made before the bound volumes are published.

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U.S. Customs Service

Treasury Decisions

(T.D. 82-200)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: October 13, 1982.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Aero Uraguay S.A., 905 16th St., Washington, D.C.; Investors Ins. Co. of America D 9/15/82	Apr. 21, 1980	June 18, 1980	Miami, FL $100,000

BON-3-01

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 82-201)

Customs Delegation Order No. 66

Delegation of Authority To Prescribe Certain Customs Regulations

By virtue of authority vested in me by Treasury Department Order No. 165-25, dated August 5, 1982, (47 FR 37993), I hereby delegate to the Assistant Commissioner (Commercial Operations),

with the right to redelegate, the authority to prescribe regulations relating to sections 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f)).

Dated: October 13, 1982.

WILLIAM VON RAAB,
Commissioner of Customs.

(T.D. 82-202)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued March 10, 1982, to May 19, 1982, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(a), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner who issued the rate, and the date on which it was signed.

(DRA-1-09)

Dated: October 18, 1982.

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: AM Bruning, Div. of AM International, Inc.
Articles: Model 08-8760 white printer with roll feed units
Merchandise: Imported Mark II roll feed units (RF 3 cutter modules)
Factory: Itasca, IL
Statement signed: March 9, 1982
Basis of claim: Used in
Rate issued by RC of Customs: Chicago, May 12, 1982

(B) Company: Accusplit
Articles: Electronic digital stopwatches
Merchandise: Imported electronic modules and liquid display crystals
Factory: San Jose, CA
Statement signed: April 27, 1982
Basis of claim: Used in
Rate issued by RC of Customs: San Francisco, May 13, 1982

(C) Company: All-Power, Inc.

Articles: Diesel driven electric generator sets
Merchandise: Imported radiators, A.C. alternators, diesel engines and circuit breakers
Factory: Conshohocken, PA
Statement signed: April 3, 1982
Basis of claim: Used in
Rate issued by RC of Customs: Baltimore, May 13, 1982
Revokes: T.D. 81-200-B

(D) Company: Brighton Corp.
Articles: Vessel tank heads
Merchandise: Imported carbon steel plates
Factories: Cincinnati, OH; Bedford Park, IL
Statement signed: April 15, 1982
Basis of claim: Used in, less valuable waste
Rate issued by RC of Customs: Chicago, May 6, 1982

(E) Company: Celus Fasteners Mfg. Co.
Articles: Blind rivets
Merchandise: Imported steel wire
Factory: Andover, MA
Statement signed: March 22, 1982
Basis of claim: Appearing in
Rate issued by RC of Customs: Boston, May 11, 1982

(F) Company: Ellicott Machine Corp.
Articles: Dredges and dredging machinery
Merchandise: Imported hydraulic motors, pumps, winches. steel pipe and tubing
Factory: Baltimore, MD
Statement signed: March 22, 1982
Basis of claim: Appearing in
Rate issued by RC of Customs: Baltimore, April 1, 1982

(G) Company: Enterra Corp., National Foam System Div.
Articles: Aqueous film forming fire fighting products and fluoroprotein products
Merchandise: Imported perfluorocarboxylic acid (PFC)
Factory: West Chester, PA
Statement signed: January 26, 1982
Basis of claim: Appearing in
Rate issued by RC of Customs: New York, March 31, 1982

(H) Company: Envirogenics Systems Co.
Articles: Water purification equipment and gas purification equipment
Merchandise: Imported plastic rigid pipe, pumps, PVC and stainless steel tubing, flanges, bushings, valves, injection units, and connectors

Factory: El Monte, CA
Statement signed: February 4, 1982
Basis of claim: Used in
Rate issued by RC of Customs: Los Angeles, March 24, 1982

(I) Company: Flow X-Ray Corp.
Articles: Medical/dental x-ray film converted to specific size medical and dental film packages in suitable light-proof packets
Merchandise: Imported medical/dental x-ray film
Factory: West Hempstead, NY
Statement signed: February 9, 1982
Basis of claim: Used in
Rate issued by RC of Customs: New York, March 31, 1982

(J) Company: Hilti Industries, Inc.
Articles: Power actuated tool DX-350 and electric hand tool TE-12
Merchandise: Various imported parts for assembly
Factory: Tulsa, OK
Statement signed: March 1, 1982
Basis of claim: Appearing in
Rate issued by RC of Customs: New York, May 13, 1982

(K) Company: Hi Specialty America, Division of Hitachi Metals International, Inc.
Articles: High speed steel drawn bars, centerless ground bars, and drawn coils
Merchandise: Imported high speed steel wire rods
Factory: Irwin, PA
Statement signed: May 4, 1982
Basis of claim: Used in, less valuable waste
Rate issued by RC of Customs: Baltimore, May 18, 1982

(L) Company: ICI Americas Inc.
Articles: Indigo 20% paste
Merchandise: Imported indigo N lumps—100%
Factory: Dighton, MA
Statement signed: April 26, 1982
Basis of claim: Used in, per abstract
Rate issued by RC of Customs: Baltimore, May 12, 1982
Revokes: T.D. 82-53-L to cover change in basis from schedule to abstract

(M) Company: Kirby Building Systems, Inc.
Articles: Steel building components
Merchandise: Imported steel in basic shapes and forms
Factory: Houston, TX
Statement signed: April 16, 1982
Basis of claim: Used in
Rate issued by RC of Customs: Houston, April 30, 1982

(N) Company: NMB Corp.
Articles: Miniature and instrument ball bearings
Merchandise: Imported inner rings, outer rings, balls, shields, retainers, and snap rings
Factory: Chatsworth, CA
Statement signed: March 3, 1982
Basis of claim: Used in
Rate issued by RC of Customs: Los Angeles, March 10, 1982

(O) Company: Emery Industries, Division of National Distillers and Chemical Corp.
Articles: Dimethyl brassylate
Merchandise: Imported erucic acid
Factory: Cincinnati, OH
Statement signed: February 19, 1982
Basis of claim: Used in, with distribution to the products obtained in accordance with their relative value at the time of separation
Rate issued by RC of Customs: Chicago, March 19, 1982
Revokes: T.D. 71–98–J as amended by T.D. 79–2–K to cover successorship from Emery Industries, Inc.

(P) Company: Oshkosh Truck Corp.
Articles: Trucks
Merchandise: Imported tires
Factory: Oshkosh, WI
Statement signed: April 30, 1982
Basis of claim: Used in
Rate issued by RC of Customs: Chicago, May 18, 1982

(Q) Company: P & J Lace Corp.
Articles: Separated knit lace piece goods
Merchandise: Imported dyed knit lace piece goods
Factory: Amityville, NY
Statement signed: March 23, 1982
Basis of claim: Used in
Rate issued by RC of Customs: New York, May 13, 1982

(R) Company: Peltzer and Ehlers, America Corp.
Articles: Multi-station cold-forming transfer header bolt master machine modified to customers specification and shipped in a knocked-down condition
Merchandise: Imported multi-station cold-forming transfer header bolt master machines, knocked-down and parts thereof
Factory: Carol Stream, IL
Statement signed: August 31, 1981
Basis of claim: Used in
Rate issued by RC of Customs: New York, March 31, 1982

(S) Company: Porta-Kamp Manufacturing Co.

Articles: Portable buildings
Merchandise: Imported plywood sheets
Factories: Houston and San Jacinto, TX
Statement signed: June 15, 1981
Basis of claim: Used in
Rate issued by RC of Customs: Houston, March 29, 1982

(T) Company: Rechsteiner Corp.
Articles: Clipped knit lace piece goods
Merchandise: Imported knit lace piece goods
Factory: North Bergen, NJ
Statement signed: January 20, 1982
Basis of claim: Used in
Rate issued by RC of Customs: New York, March 23, 1982

(U) Company: A. J. Schuster Electric Co.
Articles: Modified and re-wired control panels
Merchandise: Imported electrical sections of a multiple stage cold forming transfer header bolting machine
Factory: Warren, MI
Statement signed: February 18, 1982
Basis of claim: Used in
Rate issued by RC of Customs: New York, May 19, 1982

(V) Company: Seabrook Blanching Corp.
Articles: Blanched peanuts
Merchandise: Imported unblanched redskin shelled peanuts
Factories: Edenton, NC; Sylvester, GA
Statement signed: December 15, 1981
Basis of claim: Used in
Rate issued by RC of Customs: New York, March 23, 1982

(W) Company: Thermo King Corp.
Articles: Transport refrigeration units
Merchandise: Imported diesel engines, performance recording devices and electronic components
Factories: Minneapolis, MN; Louisville, GA; Hastings, NB
Statement signed: April 23, 1982
Basis of claim: Used in
Rate issued by RC of Customs: New York, May 19, 1982
Revokes: T.D. 81-157-Y

(X) Company: Velourit Processors, Inc.
Articles: Flock printed piece goods
Merchandise: Imported piece goods
Factory: Hoboken, NJ
Statement signed: November 19, 1981
Basis of claim: Used in, less valuable waste
Rate issued by RC of Customs: New York, March 23, 1982

(Y) Company: The Vitarine Co., Inc.
Articles: 0.1% vitamin B–12 Trituration in Mannitol
Merchandise: Imported Mannitol, USP Cyanocobalamin (Vitamin B–12)
Factory: Springfield Gardens, NY
Statement signed: March 23, 1982
Basis of claim: Used in
Rate issued by RC of Customs: New York, May 13, 1982

(Z) Company: Wells-Gardner Electronics Corp.
Articles: Video game monitors
Merchandise: Imported video game chassis and hi-voltage transformers
Factory: Chicago, IL
Statement signed: September 24, 1981
Basis of claim: Used in
Rate issued by RC of Customs: Chicago, April 9, 1982

South Florida Diesel Corporation operating under T.D. 80–204–X has changed its name to Southeast Diesel Corporation.

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 4

Vessels in Foreign and Domestic Trade

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to cruising licenses. Cruising licenses exempt pleasure vessels from certain countries from formal entry and clearance procedures at all but the first port of entry in the United States. It is proposed to extend the duration of cruising licenses from six months to one year, reducing paperwork for Customs and vessel owners, and to amend the wording of cruising licenses to apprise license-holders under what conditions their vessels may be dutiable.

DATE: Comments must be received on or before December 20, 1982.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harold M. Singer, Carriers, Drawback and Bonds Division (202-566-5706), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Section 4.94(a), Customs Regulations (19 CFR 4.94(a)), provides that U.S. vessels documented as yachts, used exclusively for pleasure, not engaged in any trade, and not violating the Customs or navigation laws of the United States, may proceed from port to port in the United States or to foreign ports without entering and clearing, as long as they have not visited hovering vessels.

Generally, foreign-flag yachts entering the United States are required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the United States. However, as provided in section 4.94(b), Customs Regulations (19 CFR 4.94(b)), pleasure vessels from certain countries may be issued cruising licenses which exempt them from formal entry and clearance procedures (e.g., filing manifests, obtaining permits to proceed and exemptions from the payment of tonnage tax and clearance fees) at all but the first port of entry. Cruising licenses are available to pleasure vessels of countries which extend reciprocal privileges to U.S. pleasure vessels. A list of these countries also is set forth in section 4.94(b).

Cruising licenses may be issued for six-month periods by any district director of Customs in accordance with requirements set forth in section 4.94(c), Customs Regulations (19 CFR 4.94(c)).

Following a management study which solicited opinions from Customs regional and Headquarters offices, Customs has determined that, in order to reduce paperwork and to facilitate compliance with section 4.94, the duration of cruising licenses should be extended from six months to one year. Customs also has determined that a "warning" concerning dutiability should be included on the license itself to ensure that holders of cruising licenses are aware that, under certain conditions, their vessels may be dutiable.

Presently, when a cruising license expires at the end of six months, a successive cruising license for an additional period of time may be granted at the discretion of the district director. However, in a decision abstracted as T.D. 55218(1), (September 6, 1960), Customs discouraged this practice by stating that successive cruising licenses shall not be issued for extended periods of time as they are not intended as a form of permanent license. In some regions the yachting season extends beyond the six-month limitation, making it necessary for masters of vessels to seek successive licenses. Extension of the duration of cruising licenses from six months to one year should result in fewer requests for renewal of licenses, thereby saving considerable time for both vessel owners and Customs personnel.

The "warning" added to cruising licenses would apprise licenseholders of the law concerning dutiability and the consequences of selling, chartering, or offering to sell or charter a vessel at the time of, or within one year of the vessel's arrival, as appropriate. There have been some instances when vessel owners' unfamiliarity with the provisions of the Tariff Schedules of the United States (19 U.S.C. 1202) and Customs long-standing policy on this subject have resulted in the forfeiture of a vessel when it was sold or chartered, or offered for sale or charter, at the time of, or within one year of, arrival without first paying the required duty.

In view of the above, Customs is proposing to amend sections 4.94(c) and (d) to: (1) extend the duration of cruising licenses from

six months to one year; and (2) amend the wording of cruising licenses to apprise license-holders under what conditions their vessels may be dutiable.

COMMENTS

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b)(1), Customs Regulations (19 CFR 103.11(b)(1)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

REGULATORY FLEXIBILITY ACT

Customs has determined that the provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to; have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from entities through comments, either formal or informal.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

EXECUTIVE ORDER 12291

It has been determined that the proposed amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

AUTHORITY

This proposal is initiated under the authority of R.S. 251, as amended, section 3, 23 Stat. 119, as amended, section 5, 35 Stat. 425, as amended (5 U.S.C. 301, 19 U.S.C. 66, 624, 46 U.S.C. 3, 104).

DRAFTING INFORMATION

The principal author of this document was Robert J. Pisani, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects In 19 CFR Part 4

Customs inspection and duties, imports, vessels, yachts.

Proposed Amendments

It is proposed to amend section 4.94, Customs Regulations (19 CFR 4.94), in the following manner:

(1) The third sentence in paragraph (c) would be amended to read as follows:

§ 4.94 Yacht privileges and obligations.

* * * * * * *

(c) * * * Upon approval of the application, the district director will issue a cruising license in the form prescribed by paragraph (d) of this section permitting the yacht, for a stated period not to exceed 1 year, to arrive and depart from the United States and to cruise in specified waters of the United States without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entrance and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money. * * *

(2) Paragraph (d) of section 4.94 would be amended by adding the following "warning" at the end of the form:

(d) * * *

WARNING: This vessel is dutiable:

(1) If owned by a resident of the United States (including Puerto Rico), or brought into the United States (including Puerto Rico), for sale or charter to a resident thereof, or

(2) If brought into the United States (including Puerto Rico) by a non-resident free of duty as part of personal effects and sold or chartered within 1 year from date of entry.

Any offer to sell or charter (for example, a listing with yacht brokers or agents) is considered evidence that the vessel was brought in for sale or charter to a resident or, if made within 1 year of entry of a vessel brought in free of duty as personal effects, that the vessel no longer is for the personal use of the non-resident.

If the vessel is sold or chartered, or offered for sale or charter, in the circumstances described, without the owner first having filed a consumption entry and having paid duty, the vessel may be subject to seizure or to a monetary claim equal to the value of the vessel. See Schedule 8, Part 2, Subpart A, headnote 1(b), Tariff Schedules

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of the United States ("TSUS"), items 696.05 and 696.10, TSUS, and 19 U.S.C. 1592.

* * * * * * *

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

Approved: September 14, 1982.
JOHN M. WALKER, Jr.,
Assistant Secretary of the Treasury.

[Published in the Federal Register, October, 19, 1982 (47 FR 46534)]

U.S. Customs Service

General Notice

Proposed Revocation of Landing Rights Designation of Melbourne Regional Airport; Solicitation of Comments

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of landing rights designation; solicitation of comments.

SUMMARY: This notice invites comments on a proposal to discontinue Customs service at Melbourne Regional Airport in Melbourne, Florida, in view of the low level of international aircraft arrivals there and the significant expense involved in processing those arrivals.

DATE: Comments must be received on or before December 20, 1982.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harry Carnes, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5607).

SUPPLEMENTARY INFORMATION:

Background

Under section 1109(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1509(b)), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United States and for merchandise carried on the aircraft. These airports are referred to as "international airports," and the location and name of each are listed in section 6.13, Customs Regulations (19 CFR 6.13).

In accordance with section 6.2, Customs Regulations (19 CFR 6.2), the first landing of every civil aircraft arriving in the United States must be at an "international airport" unless the aircraft has been specifically exempted from this requirement or permission to

land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries of merchandise, collect duties, and enforce Customs laws and regulations. If a civil aircraft desires to land at a "landing rights airport," which means an airport which has not been designated as an international airport, permission first must be obtained, and Customs must assign personnel to that airport for that aircraft.

The Melbourne Regional Airport at Melbourne, Florida, has been a "landing rights airport" since July 1971.

Arrivals of aircraft from outside the United States at Melbourne Regional Airport are handled by a small staff of Customs officers from Port Canaveral, Florida, which is 30 miles from Melbourne. There are two other landing rights airports in the general area that process international arrivals: the St. Lucie County International Airport in Fort Pierce, Florida, which is approximately 50 miles south of Melbourne, and the Orlando International Airport in Orlando, Florida, which is approximately 50 miles northwest of Melbourne.

Since 1971, there has been a low level of international aircraft arrivals at Melbourne Regional Airport. The costs to Customs to process these arrivals have been significant. The excessive time spent by Customs officers in traveling to and from Melbourne for the limited number of arrivals is a nonproductive expenditure of scarce resources. In addition, Customs has recently implemented an intensified enforcement program in South and Central Florida, to combat the influx of narcotics into the United States by air. That program has necessitated a concentration of Customs resources into eight Florida airports.

Accordingly, after a review of airport operations in Florida, it is proposed to discontinue Customs service at Melbourne Regional Airport by revoking its landing rights designation. This is part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

AUTHORITY

The authority for this proposal is R.S. 251, as amended, section 624, 46 Stat. 759, section 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509).

COMMENTS

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control

Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: August 24, 1982.

William von Raab,
Commissioner of Customs.

[Published in the Federal Register, October 19, 1982 (47 FR 46611)]

Recent Unpublished Customs Service Decisions

The following listing of recent administrative decisions issued by the U.S. Customs Service is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Customs Service Decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the U.S. Customs Service. Individuals to whom any of these decisions would be of interest should read the limitations expressed in 19 CFR 177.9(c).

A copy of any decision included in this listing, identified by its date and file number, may be obtained through use of the microfiche facilities in Customs reading rooms or if not available through those reading rooms, then it may be obtained upon written request to the Office of Regulations and Rulings, Attention: Legal Retrieval and Dissemination Branch, Room 2404, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Copies obtained from the Legal Retrieval and Dissemination Branch will be made available at a cost to the requester of $0.10 per page. However, the Customs Service will waive this charge if the total number of pages copied is ten or less.

The microfiche referred to above contains rulings/decisions published or listed in the **Customs Bulletin,** many rulings predating the establishment of the microfiche system, and other rulings/decisions issued by the Office of Regulations and Rulings. This microfiche is available at a cost of $0.15 per sheet of fiche. In addition, a keyword index fiche is available at the same cost ($0.15) per sheet of fiche.

It is anticipated that additions to both sets of microfiche will be made quarterly. Requests for subscriptions for the microfiche should be directed to the Legal Retrieval and Dissemination Branch. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: October 20, 1982.

MARVIN M. AMERNICK,
(Acting) Director, Regulations Control and Disclosure Law Division.

Date of decision	File No.	Issue
9-24-82	069857	Classification: labels that can be transferred to a substrate by heat and pressure (644.95)
9-24-82	069941	Classification: K-9 security system consisting of a series of chain link panels (653.00)
9-24-82	105755/ 105810	Vessels: a vessel owned by a U.S. citizen and not in possession of a valid document, either U.S. or foreign, is undocumented for tonnage tax purposes
9-24-82	105771	Vessels: a passenger who embarks on a voyage on a foreign vessel originating and terminating in a foreign port and touching four Alaskan ports would be in violation of coastwise laws

United States Court of International Trade

Decisions of the United States Court of International Trade

(Slip Op. 82-82)

STEWART-WARNER CORPORATION, PLAINTIFF *v.* UNITED STATES, DEFENDANT

Court No. 81-12-01740 (Issue Joined Calendar)

Before WATSON, *Judge.*

MEMORANDUM OPINION AND ORDER

(Decided October 5, 1982)

Lamb & Lerch (Sidney H. Kuflik of counsel) for *amicus curiae* Diversified Products Corporation.

Law Offices of Eugene L. Stewart (Eugene L. Stewart, Terence P. Stewart and Jeffrey S. Beckington of counsel) for plaintiff Stewart-Warner Corporation.

J. Paul McGrath, Assistant Attorney General (Joseph I. Liebman, Attorney-in-Charge, International Trade Field Office; Deborah E. Rand, Commercial Litigation Branch) for defendant United States.

WATSON, *Judge:* This is a dispute over whether a motion by an *amicus curiae* for disclosure of confidential information should be granted. The dispute arises in an action commenced under section 516 of the Tariff Act of 1930 (19 U.S.C. § 1516) by Stewart-Warner Corporation, a United States manufacturer of speedometers and odometers. The action challenges the denial by the United States Customs Service of a petition by Stewart-Warner in which it disputed the tariff classification of imported speedometers and proposed a different classification. In this action, on a motion by plaintiff, portions of Exhibit 1 to the complaint (which were portions of the administrative petition, containing confidential business information) were placed under a protective order whose terms were agreed to by the plaintiff and the defendant United States. At a later date the Diversified Products Corporation (Diversified), an American manufacturer of exercise cycles which incorporated imported speedometers of the type in dispute, was granted leave to file a brief as *amicus curiae* under Rule 76 of the Rules of this Court. Now, Diversified seeks access to the protected information for the purpose of demonstrating a defect in the procedures followed by plaintiff on the administrative level and a consequent jurisdictional defect in this action.

The defendant United States has no objection to the disclosure but the plaintiff objects on a number of grounds, chiefly, that the proposed jurisdictional argument goes beyond the proper role of an *amicus;* that it goes beyond the terms of the participation contemplated when the filing of an *amicus* brief was allowed; and that Diversified is not an interested party to whom disclosure may be made under the protective order.

In the abstract, the Court sees no limitation to the issues on which a brief by *amicus curiae* may be found useful. Nor is it an objection that *amicus* has an adversarial objective. However, *amicus* briefs are solely for the benefit of the Court and their filing and scope are strictly subject to its control. The granting of an application does not bestow a general right of participation, but rather is limited to those issues which the Court allows the *amicus* to address.

In this action the motion for leave to file a brief as *amicus curiae* focused on Diversified's knowledge of speedometers. If it was not clear then, the Court now explicitly states that Diversified's partici-

pation was approved in order to obtain the benefit of its views on the subject of the proper classification of the speedometers. Its participation in other respects would not be granted unless the Court was persuaded by the parties or its own examination that a jurisdictional issue exists and then was further persuaded that the Court would be aided in its decision by an additional brief.

The Court is also somewhat concerned that in this action participation as *amicus* should not become a substitute for intervention. Participation in this action by intervention is expressly forbidden by Section 301 of the Customs Courts Act of 1980 (28 U.S.C. § 2631(j)(1)(A)). That section states that "no person may intervene in a civil action under section 515 or 516 of the Tariff Act of 1930." This means that under the terms of section 516 (19 U.S.C. § 1516) full participation as a party is limited to the domestic petitioner, the United States, and, if it chooses to appear as a party in interest, the consignee of the importations in dispute or its agent.

This conclusion is based on the Court's view of the limitation on Diversified's participation as *amicus curiae.* It is not necessary to consider whether or not Diversified is an "interested party" as that term was used in the protective order because its role in the action does not require the use of the protected material.

For the reasons discussed above the motion of *amicus curiae* for disclosure of the material subject to the protective order is denied. It is so ordered.

(Slip Op. 82–83)

PPG INDUSTRIES, INC., PLAINTIFF *v.* THE UNITED STATES, DEFENDANT

Before BOE, *Judge.*

Consolidated Court No. 77–10–04458

I

The court acquired jurisdiction over the subject matter of the instant action by virtue of plaintiff's timely protest of Customs' refusal to reliquidate the subject merchandise.

II

The merits of plaintiff's claim protesting the refusal of Customs to reliquidate the subject merchandise pursuant to 19 U.S.C. § 1520(c)(1) properly are determined in the motion and cross-motion for summary judgment before the court.

III

The plaintiff failed to bring to the attention of Customs information that the subject entries were intended *solely* for testing or ex-

perimental purposes or that the entry of the subject merchandise was sought temporarily free of duty or that the subject merchandise was intended to be imported under bond for exportation within a maximum period of three (3) years, as provided by item 864.30 and Headnote 1, Subpart C, Part 5, Schedule 8, TSUS.

IV

The alleged notices by plaintiff to Customs with respect to the mistake of fact or inadvertence were made prior to liquidation of the entries and, accordingly, did not constitute timely notice as required by 19 U.S.C. § 1520(c)(1).

[Motion for summary judgment by plaintiff, denied. Cross-motion for summary judgment by defendant, granted.]

(Decided October 5, 1982)

Eugene L. Stewart, for the plaintiff.

J. Paul McGrath, Assistant Attorney General; *Joseph I. Liebman,* Attorney in Charge, International Trade Field Office, Commercial Litigation Branch, *Jerry P. Wiskin,* for the defendant.

BOE, *Judge:* In the above-entitled consolidated action the plaintiff contests the refusal of the Customs Service to reliquidate the merchandise in issue consisting of bipolar diaphragm electrolyzers and miscellaneous parts therefor used in the production of chlorine. The subject merchandise was entered during a period from 1969 to 1973 at the ports of Houston and Corpus Christi, Texas; New Orleans, Louisiana and Philadelphia, Pennsylvania.

At the time of entry the various imported articles were claimed by plaintiff and its agents to be classified under items of the tariff schedules bearing a rate of duty.[1]

In the instant action the plaintiff invokes 19 U.S.C. § 1520(c)(1) which provided:

> (c) Reliquidation of entry
>
> Notwithstanding a valid protest was not filed, the appropriate customs officer may, in accordance with regulations prescribed by the Secretary, reliquidate an entry to correct—
>
> (1) A clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law, adverse to the importer and manifest from the record or established by documentary evidence, in any entry, liquidation, or other customs transaction, when the error, mistake, or inadvertence is brought to the attention of the customs service within one year after the date of entry, or transaction, or within ninety days after liquidation or exaction when the liquidation or exaction is made more than nine months after the date of the entry, or transaction; * * *

Plaintiff contends herein that because of mistake of fact and inadvertence, Customs failed to classify the subject merchandise as ex-

[1] Classification was claimed under such items as 661.70, 678.50, 683.40, 773.25, TSUS.

perimental and, accordingly, free of duty under item 864.30, TSUS, which provides:

> Articles intended solely for testing, experimental, or review purposes, including plans, specifications, drawings, blueprints, photographs, and similar articles for use in connection with experiments or for study * * *

By a prior motion the defendant sought to dismiss the instant action for lack of jurisdiction over the subject matter. Determination of defendant's motion was deferred by this court until the trial of the within action on the merits. *See PPG Industries, Inc.* v. *United States*, 84 Cust. Ct. 256 (1980).

Upon the record in the instant action as well as upon the affidavits and depositions filed in connection therewith, the plaintiff presently moves for summary judgment.

The defendant renews its motion to dismiss the instant action for lack of jurisdiction over the subject matter and, alternatively, cross-moves for summary judgment.

In order to facilitate the application of the germane statutory provisions to the facts in the instant action, the merchandise in issue has been divided into groups relating to a time frame during which the specific entries were entered and liquidated.

Group A—entries entered and liquidated between December 1, 1969 and October 27, 1972.

Entry No.	Port	Date of entry	Date of liquidation
30-C	Corpus Christi	12-1-69	12-18-69
100026	Corpus Christi	8-25-70	10-2-70
109551	Houston	11-2-70	10-27-72

Group B—entries entered and liquidated between January 5, 1972 and June 1, 1973.

Entry No.	Port	Date of entry	Date of liquidation
100132	Corpus Christi	1-5-72	2-9-73
137339	Philadelphia	2-8-72	3-3-72
100083	Corpus Christi	11-20-72	4-13-73
10-C	Corpus Christi	9-21-73	9-21-72
100155	Corpus Christi	3-15-73	6-1-73

Group C—entries entered and liquidated between November 17, 1972 and October 25, 1974.

Entry No.	Port	Date of entry	Date of liquidation
218363	New Orleans	2-15-73	10-25-74
205527	New Orleans	9-13-73	10-25-74

Claims regarding entries 100133; 101955; 105901; 211005 have been abandoned.[2]

To sustain defendant's motion to dismiss for lack of jurisdiction over the subject matter would disregard the explicit statutory provisions which grant to this court the exclusive jurisdiction over the subject matter. The record in the instant action discloses that on January 8, 1976, a formal request for reliquidation of the subject entries was made by the plaintiff. Upon the refusal of Customs to *reliquidate* the subject entries by amending the same pursuant to 19 U.S.C. § 1520(c)(1), the plaintiff timely filed its protest pursuant to 19 U.S.C. § 1514(a)(7) and upon denial thereof by Customs commenced the instant action in this court in a timely manner.

The defendant's motion to dismiss is not directed to plaintiff's protest, the denial thereof by Customs or the timeliness in instituting this action in this court. Defendant's motion is directed solely to the timeliness and the sufficiency of the request for reliquidation made by plaintiff pursuant to 19 U.S.C. § 1520(c)(1). By virtue of plaintiff's timely protest of Customs' refusual to reliquidate the entries, this court unquestionably acquired jurisdiction over the subject matter concerning which the facts to the instant action relate. 19 U.S.C. § 1514(a)(7); 28 U.S.C. § 1582(a). *See C. J. Tower & Sons of Buffalo, Inc.*, v. *United States*, 68 Cust. Ct. 17, *aff'd* 61 CCPA 90, 499 F. 2d 1277 (1974).

However, to recognize that subject matter jurisdiction of the instant action has been acquired by this court does not at the same time imply that the merits of plaintiff's claim protesting the refusal of Customs to reliquidate the subject entries pursuant to 19 U.S.C. § 1520(c)(1) are likewise recognized. *See Madden Machine Co.* v. *United States*, 61 CCPA 97, 499 F. 2d 1294 (1974). Were it to appear patently from the record that the provisions of 19 U.S.C. § 1520(c)(1) with respect to the sufficiency or timeliness of the request for liquidation have not been met, a motion to dismiss for failure to state a claim upon which relief can be granted might well lie. The defendant has not chosen to predicate its motion upon this ground.

However, the evidence adduced in the instant action with respect to the compliance made by the plaintiff with the prerequisites of 19 U.S.C. § 1520(c)(1) is inextricably intermeshed with the evidentiary facts relating to the merits of the District Director's refusal to reliquidate the subject merchandise. Accordingly, in granting the

[2] Plaintiff's Statement of Material Facts, pp. 4, 20 and 23.

defendant's alternative cross-motion for summary judgment, the sufficiency and the timeliness of plaintiff's request for reliquidation under the provisions of 19 U.S.C. § 1520(c)(1) are considered and determined in connection with the evidentiary facts relating thereto.

Under section 1520(c)(1) three conditions must be satisfied before the appropriate Customs officer is authorized to reliquidate an entry to correct a "mistake of fact, or other inadvertence":

(1) A mistake of fact or other inadvertence exists.

(2) The mistake of fact or other inadvertence is manifest from the record or established by documentary evidence, and

(3) The mistake of fact or other inadvertence is brought to the attention of the Customs Service within the time requirements of the statute.

A mistake of fact remediable under the provisions of 19 U.S.C. § 1520(c)(1) is one "which takes place when some fact which indeed exists is unknown or a fact which is thought to exist in reality does not exist." *C. J. Tower & Sons, supra,* at 22. In *Tower* the remediable mistake was the lack of knowledge on the part of the importer until after liquidation that the subject merchandise was in fact to be used as emergency war material, which was duty free.

Any mistake which might have been made in the instant action was qualitatively different from the mistake in *Tower.* In the latter case, the plaintiff-importer was mistaken as to the use to which his merchandise would be put. In the instant action the plaintiff was under no such misapprehension. The company officials admitted knowing the intended use to which the subject merchandise would be placed. The mistake alleged by plaintiff is similar to the mistake of law found in *Hambro Automotive Corp.* v. *United States,* 66 CCPA 113, 603 F.2d 850 (1979). There the exporter knew the facts regarding its cost of production but erred in the assessment of those costs under the applicable law.

Plaintiff contends that the invoices bearing notations "experimental material" and "no charge" constitute such notice to Customs as to require a further inquiry into the eligibility of the subject merchandise for duty-free treatment. However, examination of the consumption entries filed with Customs and prepared by plaintiff and its agents fails to disclose any notations or information relating to the character or the intended use of the imported merchandise. On the contrary, each consumption entry specifically included a claimed classification under a tariff schedule item bearing a rate of duty.

The court cannot agree with the plaintiff that a notation "experimental" or "no charge" could have apprised Customs of the character and intended use of the subject merchandise. The adjective "experimental" does not include by way of implication that the use of an article is intended for a limited duration of time only. As evidenced from the very record herein, experimental equipment may be used over a period of many years.

In item 864.30, TSUS, under which plaintiff now seeks classification of the subject merchandise free of duty, the term "experimental articles" is qualified by Subpart C, Part 5, Schedule 8 under which it is included. Subpart C relates only to "Articles Admitted Temporarily Free of Duty Under Bond."

Headnote 1, Subpart C provides in pertinent part:

> 1. (a) The articles described in the provisions of this subpart, when not imported for sale or for sale on approval, may be admitted into the United States without the payment of duty, under bond for their exportation within 1 year from the date of importation, which period, in the discretion of the Secretary of the Treasury, may be extended, upon application, for one or more further periods which, when added to the initial 1 year, shall not exceed a total of 3 years, * * *

In asserting that the subject merchandise has been wrongly classified due to a mistake of fact, it is incumbent on the plaintiff to show by sufficient evidence the nature of the mistake of fact. The burden and duty is upon the plaintiff to inform the appropriate Customs official of the alleged mistake with "sufficient particularity to allow remedial action." *Hambro Automotive Corp.* v. *United States,* 81 Cust. Ct. 29, 31 (1978).

No information was provided by the plaintiff that the subject merchandise, as imported, was intended *solely* for testing or experimental purposes. No information was provided by plaintiff that admittance of the subject merchandise was sought temporarily free of duty. No information was provided by plaintiff that the subject merchandise was intended to be imported under bond for their exportation within 1 year or at the expiration of two additional 1-year extensions, granted at the discretion of the Secretary. None of the foregoing facts are manifest from the record. Nor did the letters sent to Customs by plaintiff's officer (Mr. Kempf) and its Customs broker nor the conversation between the broker and Customs include this information. If it were the intention to use the subject merchandise solely for experimental purposes and for the limited duration provided by section 1520(c)(1), the duty fell alone upon the plaintiff-importer to have so timely advised Customs. The plaintiff in thrusting the entire burden in ascertaining the true experimental character and intended use of the subject merchandise from the meager information provided would require the appropriate Customs officials to possess Delphian powers.

Under an alleged but ill defined "principle of agency" the plaintiff contends that notice of a mistake of fact given to one Customs officer constituties notice to all other districts or regions of the service. Thus, argues the plaintiff, information directed to the Customs officials at Houston, Texas, with respect to the entries made thereat should constitute constructive notice to the Customs officicals with respect to similar merchandise entered at the port of Philadelphia. Clearly, the Congress did not intend to impose upon

Customs officials across the Nation, who must handle thousands of entries each week, an obligation to ferret out information as to the duty-free character not only those entries entered within his own district but also with respect to entries of similar character in other districts, particularly where the information regarding such merchandise and the use thereof is singularly within the knowledge of the importer. The language of section 1520(c)(1) mandates that "the appropriate Customs officer" shall reliquidate an entry to correct a mistake of fact. The very justification for conferring upon this court, formerly the United States Customs Court, national jurisdiction is to assure uniformity in the application of the Customs laws throughout the United States where, as recognized, the administrative determinations in the respective Customs districts and regions may conflict due to error in construction or lack of individual knowledge of the facts.

The provisions of 19 U.S.C. § 1520(c)(1), in effect at the time of the entries in issue, authorized a Customs officer to reliquidate an entry when the mistake of fact or other inadvertence is brought to the attention of Customs "within one year after the date of entry, or transaction or within ninety days after liquidation or exaction when the liquidation or exaction is made more than nine months after the date of the entry or transaction."

Decisions of this court uniformly have held that to invoke the foregoing statute the information relating to a mistake of fact must in effect constitute a request for reliquidation and be made within the time requirements specified in the statute. *Berkery, Inc. et al.* v. *United States,* 47 Cust. Ct. 102, C.D. 2287 (1961); *Hensel, Bruckmann and Lorbacher, Inc., a/c Naftone International Corp. et al.* v. *United States,* 57 Cust. Ct. 52, C.D. 2723 (1966); *J. S. Sareussen Marine Supplies Inc.* v. *United States,* 62 Cust. Ct. 449, C.D. 3799 (1969); *St. Regis Paper Co.* v. *United States,* 2 CIT —, Slip Op. 81-100 (Nov. 3, 1981); *Adorence Company, Inc.* v. *United States,* 3 CIT —, Slip Op. 82-24 (April 2, 1982), appeal pending. A claim made to Customs prior to liquidation is not timely "inasmuch as section 1520(c)(1) only supports a claim for reliquidation as distinguished from liquidation." *Hensel, supra,* at 54. No valid request for reliquidation can exist when no liquidation has in fact been made. *Sareussen, supra,* at 454.

The record herein undisputedly shows that the various means of notification alleged by the plaintiff to have been made to Customs with respect to the subject merchandise occurred in every instance prior to liquidation. The invoices containing the notations "experimental material" and "no charge," which the plaintiff claims constitutes a sufficient notice to Customs with respect to the entries which have been hereinbefore set forth under Group A and Group B, obviously were filed prior to liquidation.

The communications, consisting of conversations between the plaintiff, its agents and Customs officials in 1970 and the letter

from Mr. Kempf of plaintiff company to Customs under date of January 15, 1971, all relating specifically to entry 109551, clearly appear from the record to have occurred prior to liquidation of the entry on October 25, 1974.

The additional letters from Mr. Kempf of plaintiff company to Customs officials in 1973 and 1974 with respect to those entries set forth in the schedule hereinbefore designated as Group C likewise antedate the liquidation of those entries made on October 25, 1974.

Plaintiff's first request for reliquidation was not filed herein until January 8, 1976. This belated effort patently fails to meet the time requirement provided by section 1520(c)(1).

This court, accordingly, concludes:

(1) That neither the record nor any evidence presented in connection therewith reveal that the plaintiff brought to the attention of Customs any information with sufficient particularity to allow remedial action as to a mistake of fact or other inadvertence authorizing the appropriate Customs officer to reliquidate the subject entries within the provisions of 19 U.S.C. § 1520(c)(1).

(2) No notice with respect to any mistake of fact or inadvertence relating to the alleged wrongful classification of the subject merchandise was timely made by plaintiff to Customs within the provisions required by 19 U.S.C. § 1520(c)(1).

(3) The motion of the plaintiff for summary judgment is denied.

(4) The alternative cross-motion of the defendant for summary judgment is granted.

Let judgment be entered accordingly.

(Slip Op. 82-84)

AMERICAN AIR PARCEL FORWARDING COMPANY, LTD., A HONG KONG CORPORATION; AND E. C. MCAFEE COMPANY, A MICHIGAN CORPORATION, FOR THE ACCOUNT OF AMERICAN AIR PARCEL FORWARDING COMPANY, LTD., PLAINTIFFS *v.* UNITED STATES OF AMERICA; THE SECRETARY OF THE TREASURY; UNITED STATES CUSTOMS SERVICE; THE COMMISSIONER OF CUSTOMS, UNITED STATES CUSTOMS SERVICE; THE ASSISTANT COMMISSIONER OF CUSTOMS (COMMERCIAL OPERATIONS), UNITED STATES CUSTOMS SERVICE; DIRECTOR, OFFICE OF REGULATIONS AND RULINGS, UNITED STATES CUSTOMS SERVICE; AND DISTRICT DIRECTOR OF CUSTOMS, UNITED STATES CUSTOMS SERVICE, DETROIT, MICHIGAN; Jointly and Severally, defendants

Court No. 82-2-00165

Before RE, *Chief Judge.*

Memorandum and Order on Plaintiffs' Motion for a Three-Judge Panel

[Denied.]

(Dated October 6, 1982)

Richard A. Kulics, attorney for plaintiff E. C. McAfee Company, a Michigan Corporation, for the Account of American Air Parcel Forwarding Company, Ltd.

Goodman, Miller & Miller, (Jonathan Miller, of counsel) for the plaintiff American Air Parcel Forwarding Company, Ltd., a Hong Kong Corporation.

J. Paul McGrath, Assistant Attorney General; *Joseph I. Liebman,* Attorney in Charge, International Trade Field Office, Commercial Litigation Branch (*Susan L. Handler-Menahem* and *Madeline Kuflik* of counsel) for the defendants.

Re, *Chief Judge:* In this action contesting the valuation of clothing imported from Hong Kong, plaintiff E. C. McAfee Co. moves for an order designating a three-judge panel to hear and determine all matters relating to the jurisdiction of this court over the subject matter of the action. Concurrently, plaintiff American Air Parcel Forwarding Co., Ltd. moves for an order shortening defendant's time to respond to plaintiff McAfee's motion for a three-judge panel.

For the reasons which follow, the motion for a three-judge panel is denied. Consequently, the motion to shorten defendant's time to respond is deemed moot.

28 U.S.C. § 255 authorizes the Chief Judge of the Court of International Trade to designate a three-judge panel to hear and determine any action which the Chief Judge finds:

1. Raises an issue of the constitutionality of an Act of Congress, a proclamation of the President, or an Executive order; or

2. Has broad and significant implications in the administration or interpretation of the customs laws.

This action does not involve the constitutionality of an Act of Congress, a proclamation of the President or an Executive order. Plaintiff argues, however, that the resolution of the jurisdictional issue in this action will have broad and significant implications for the administration of the customs laws.

The factual background of this action is set forth in *American Air Parcel Forwarding Co., Ltd.* v. *United States,* 4 CIT —, Slip Op. 82-69 (Aug. 31, 1982). Subsequent to that decision granting a preliminary injunction, defendant moved for an order of dismissal, arguing that the court was without jurisdiction over this action because it involved protestable decisions which had not been subjected to administrative review. See *United States* v. *Uniroyal, Inc.,* — CCPA —, Appeal No. 82-9 (Sept. 2, 1982). Plaintiffs, on the other hand, assert that the court has jurisdiction of this action under 28 U.S.C. § 1581 (h) and (i).

This court has elsewhere expressed its reluctance to appoint a three-judge panel merely becuase the jurisdiction of the court has become an issue in a pending action. In *United States* v. *Accurate Mould Co., Ltd.,* et al., 3 CIT —, Slip Op. 82-35 (May 3, 1982), this

court considered a motion to designate a three-judge panel to determine the court's jurisdiction over civil penalty actions arising under section 592 of the Tariff Act of 1930, 19 U.S.C. § 1592 (Supp. II 1978). The court stated:

> The presence of an important jurisdictional issue does not, by itself, make this case exceptional. Since the enactment of the Customs Courts Act of 1980, a single-judge court has on numerous occasions decided far-reaching questions affecting the court's jurisdiction * * *.
>
> * * * In view of the frequency with which jurisdictional issues are raised in this court, [granting the motion] would contravene the principle of judicial administration which requires conservation of judicial resources.

There is no doubt that this case presents a significant jurisidictional issue. However, it is not so exceptional as to warrant the designation of a three-judge panel. Cf. *SCM Corp.* v. *United States*, 79 Cust. Ct. 163, 167, C.R.D. 77-6, 435 F. Supp. 1224, 1228 (1977).

Accordingly, the court, having before it all of the information necessary to decide plaintiff's motion for a three-judge panel, it is hereby

Ordered, that plaintiff E. C. McAfee's motion for a three-judge panel be denied; and it is further

Ordered, that plaintiff American Air Parcel's motion for an order shortening defendant's time to respond to the motion for a three-judge panel be dismissed as moot.

(Slip Op. 82-85)

LEATHER'S BEST, INC., PLAINTIFF *v.* UNITED STATES, DEFENDANT

Court No. 77-10-04197

Before FORD, *Judge.*

EMBOSSED LEATHER

Leather which has been embossed with a hair cell pattern or has been smooth plated is entitled to entry free of duty under item A121.65, Tariff Schedules of the United States, as fancy leather rather than at 5 per centum ad valorem under item 121.57 or 121.58, TSUS, as other leather not fancy, as classified.

[Judgment for plaintiff.]

(Decided October 8, 1982)

Mandel & Grunfeld (*Steven P. Florsheim* and *Robert B. Silverman* at the trial and on the brief) for the plaintiff.

J. Paul McGrath, Assistant Attorney General, *Joseph I. Liebman,* Attorney in Charge, International Trade Field Office, Commercial Litigation Branch (*Barbara M. Epstein* at the trial and on the brief), for the defendant.

FORD, *Judge:* Plaintiff has instituted this action to obtain duty free treatment for certain leather under provisions of the General System of Preferences (GSP), as set forth in Headnote 3(c) of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States. The merchandise was classified under item 121.57, TSUS (1976 entries) or 121.58 (1977 entries) TSUS, as modified by T. D. 68-9 as other leather, not fancy, and assessed with duty at 5 per centum ad valorem.

Plaintiff contends the leather, which was subjected to one of two embossing processes, is fancy leather within the definition contained in Schedule 1, Part 5, Subpart A, headnote 1(b) and which is subject to classification under item A121.65, TSUS, and accordingly entitled to entry free of duty under the GSP provisions. The leather was embossed either with a "hair cell" pattern or was smooth plated on an embossing machine. The former produced an artificial cattle hair cell type pattern and the latter flattened the natural hair cell pattern and created a smoother and glossier appearance.

The pertinent statutory provisions are as follows:

Leather, in the rough, partly finished, or finished:

* * * * * * *

Other

* * * * * * *

Other

Not fancy:

* * * * * * *

121.58 (121.57)	Other	5% ad val.

* * * * * * *

Fancy:

* * * * * * *

121.65	Other	Free

Schedule 1, Part 5, Subpart A:

Subpart A headnotes:

1. For the purposes of this subpart—

* * * * * * *

(b) the term "*fancy*", as applied to leather, means leather which has been embossed, printed, or otherwise decorated in any manner or to any extent (including leather finished in aluminum, gold, silver, or like effects and leather on which the original grain has been accentuated by any process).

* * * * * * *

This action was the subject of cross-motions for summary judgment which were denied on May 27, 1981. Plaintiff in the above motions abandoned the following entries which are hereby dismissed:

Entry No.:	*Date of entry*
109889	10-8-76
158394	11-16-76
144452	11-5-76

The record herein consists of the testimony of five witnesses, two called on behalf of plaintiff and three by defendant. Eighteen exhibits were received in evidence for plaintiff and two for defendant. The evidence establishes the imported bovine leather has been embossed. Exhibits 6, 8, and 10 are representative samples of the imported merchandise. Exhibits 6 and 8 are hair cell embossed while exhibit 10 is a sample of smooth plated leather. The same merchandise, not hair cell embossed, is representated by exhibits 7 and 9, and exhibit 11 represents merchandise similar to exhibit 10 except for the smooth plating.

The leather was fully tanned prior to the hair cell embossing or the smooth plating. The tanning process requires the rawhide as received in the tannery to be dehaired and defleshed. It is then put in solutions which impart the characteristics to the hide. The split and grain side is placed in a drum where it is colored, after which it is removed and dried. At this point the hair cell embossing or smooth plating takes place after which the leather is wrapped and shipped to the United States. In order to emboss the leather, it is placed in an embossing machine and a plate, either with a design or plain, is utilized under heat and pressure to imprint the design or smooth pattern on the leather. The purpose of utilizing hair cell embossing is to imprint a more uniform and permanent grain design which in turn improves the cutability of the leather. The hair cell embossing hides tick bite marks and other defects and blemishes, while smooth plating increases the glossiness and smooths the leather. According to plaintiff's witnesses both processes decorated and also enhanced or beautified the leather. Defendant's witnesses, Loewengart and Gunnerfos, while admitting the leather was embossed, denied the leather was decorated or its appearance enhanced or beautified.

Based upon the record plaintiff contends the imported hair cell embossed leather and the smooth plated leather fall within the definition of fancy as set forth, *supra*. Defendant takes the position that embossing alone is not suffficient since the definition of fancy

provides "embossed, printed or otherwise decorated" and therefore requires the leather to be decorated.

The question of whether the leather is decorated varied with the witnesses. Plaintiff's witnesses considered the leather decorated or enhanced in appearance while defendant's witnesses, Loewengart and Gunnerfos, denied the imported leather was decorated, based upon the small amount of design applied. However the definition states, "or otherwise decorated *to any extent*". This obviously does not require the embossing to be extreme such as in plaintiff's exhibit A. Defendant's witness Bailey relied upon the definition of embossed leather as set forth in ASTM Standard Definitions of Terms Relating to Leather, D 1517-67 (defendant's exhibit B) which requires the leather be "ornamented with a geometrical or fancy design by heavy pressure in a machine".

The definition of fancy leather in the ASTM Standards (Defendant Exhibit B) provides as follows:

> fancy leather—leathers made from hides and skins of all kinds that have commercial importance and value primarily because of grain, or distrinctive finish, whether natural or the result of processing. Such processing may be graining, printing, embossing, ornamenting (including in gold, silver, and aluminum finishes), or any other finishing operation enhancing the appeal of leather. [P. 118.]

The above definition is broader than intended by Congress as is evidenced by the following legislative history in the Tariff Classification Study (1960), Schedule 1:

> In the proposed schedule on which public hearings were held, the existing distinction between the regular leathers and the so-called "fancy" leathers was eliminated. Paragraph 1530(d), as originally enacted, imposed a rate of 30 percent *ad valorem* on fancy leathers, but this rate has been reduced under trade agreement negotiations to 12.5 percent. This provision has been troublesome. Under this broad classification is included in both trade and popular terminology a group of heterogeneous leathers for which it is very difficult to find a suitable definition. The Tariff Act of 1930 provides for "Leather * * * grained, printed, embossed, ornamented, or decorated * * * or by any other process (in addition to tanning) made into fancy leather." In 1930, these effects were obtained by mechanical manipulation of the leather after tanning, but some of these effects are now achieved by newly developed chemical reactions in the tanning process. Appraising officers find it extremely difficult to determine whether some of the "fancy effects" in leather have been created in the tanning process or in additional operations. The suggestion has been made by several customs officers that a better definition be written into the law or that the distinction be eliminated. In view of the protests received at the hearing against the duty reductions of 2.5 percent *ad valorem* which would result for some fancy leathers, provisions have been reinstated for fancy leathers at the

existing rate where there are now rate differentials (items 121.45 and 121.60) and "fancy" leather has been redefined in headnote 1(b).

From the foregoing it is apparent the definition of fancy leather contained in TSUS was to aid customs in determining whether the effects of granting, embossing, printing, etc. was accomplished by tanning or after tanning by additional processes. The involved merchandise was the result of an additional process, i.e., embossing, and hence falls within the term fancy. In *Herman Lowenstein* v. *United States,* 24 CCPA 163, T.D. 48641 (1936), the Court of Customs and Patent Appeals (now the United States Court of Appeals for the Federal Circuit) discussed the decision in *United States* v. *John B. Stetson,* 21 CCPA 3, T.D. 46319 (1933). The portion of the decision set forth below, while involving paragraph 1530(d) of the Tariff Act of 1930, the predecessor of the provision under consideration, is nevertheless pertinent and equally applicable to the case at bar.

> We are unable to agree with the view of counsel for the appellee in their construction of the language of said paragraph 1530(d). Here we find an enumeration of several kinds of leather which are to be classified thereunder, and these are designated *eo nomine:* Grained leather, printed leather, embossed leather, ornamented leather, and decorated leather. If the involved leather be of any one of these varieties it is within the subparagraph, because the Congress has so specifically provided. Nor can we agree with the view that the language "*or by any other process* (in addition to tanning) *made into fancy leather,*" removes "grained" leather from the subparagraph, unless it be also known as "fancy." The use of the language "or by any other process" (in addition to tanning) indicates plainly, in our view of the matter, that the Congress, having enumerated what it considered to be fancy leather, was providing a general clause which would make it possible to include therein any leathers made fancy by any other process than those already enumerated. To hold otherwise would be to make it possible to remove any leather, such as "embossed," for example, from the purview of the subparagraph by proof that it was not commercially or commonly known as "fancy" leather.
>
> "Or by any other process," in its ordinary grammatical construction as a part of the sentence in which it is found, obviously refers to any other process than graining, printing, embossing, ornamenting, or decorating, as there are no other antecedents to which the phrase may grammatically refer.
>
> In other words, the Congress has by this subparagraph named "grained" leather as one variety of fancy leather for tariff purposes.
>
> Pursuant to this discussion we held the imported goods to be within the purview of said paragraph 1530(d) rather than as contended by the importer.

The phrase "or by any other process" in the above has the same contextual meaning as "or otherwise decorated" in the TSUS. Therefore it is not necessary to establish that embossed leather is also decorated.

In view of the foregoing, I find the imported leather to be fancy and subject to classification under item A121.65 as claimed by plaintiff. The merchandise being subject to classification thereunder is entitled to entry free of duty by virtue of being subject to treatment under GSP.

Judgment will be entered accordingly.

(Slip Op. 82–86)

BETHLEHEM STEEL CORPORATION, PLAINTIFF *v.* UNITED STATES, DEFENDANT, and Arbed S.A., Cockerill-Sambre, S.A., Klockner-Werke A.G. and N. V. Sidmar S.A.; and Thyssen A.G.; and Sacilor, Acieries et Laminoirs de Lorraine and Aktiengesellschaft der Dillinger Huettenwerke; and Stahlwerke Peine-Salzgitter A.G.; and Estel Hoogovens B.V., defendant-intervenors

Court No. 82-9-01274

MEMORANDUM OPINION AND ORDER

(Decided October 13, 1982)

Law Offices of Eugene L. Stewart (Eugene L. Stewart and Terence P. Stewart of counsel); Law Department, Bethlehem Steel Corporation (Curtis H. Barnette, General Counsel; Meredith Hemphill, Jr., Assistant General Counsel; Laird D. Patterson and Roger W. Robinson, General Attorneys) for plaintiff Bethlehem Steel Corporation.

J. Paul McGrath, Assistant Attorney General, David M. Cohen, Director Commercial Litigation (Francis J. Sailor, Civil Division) for defendant United States.

Graubard, Moskovitz, McGoldrick, Dannett & Horowitz (John A. Young of counsel) for defendant-intervenors Arbed S.A., Cockerill-Sambre S.A., Klockner-Werke A.G. and N.V. Sidmar S.A.

Graubard, Moskovitz & McCauley (Alfred R. McCauley and Beatrice A. Brickell of counsel) for defendant-intervenor Thyssen A.G.

Windels, Marx, Davies & Ives (Pierre F. de Ravel d'Esclapon of counsel) for defendant-intervenors Sacilor, Acieries et Laminoirs de Lorraine and Aktiengesellschaft der Dillinger Huettenwerke.

Arent, Fox, Kintner, Plotkin & Kahn (Stephel L. Gibson of counsel) for defendant-intervenor Stahlwerke Peine-Salzgitter A.G.

Sharrets, Paley, Carter & Blauvelt (Gail T. Cumins and Peter O. Suchman of counsel) for defendant-intervenor Hoogovens B.V.

Law Offices of Robert M. Gottschalk (Robert M. Gottschalk of counsel) for defendants-intervenors Union Siderurgique du nord et de l'est de la France and Forges de Clabecq.

WATSON, *Judge:* By this motion plaintiff raises the question of whether conventional rules of discovery, about whose liberal scope there is no dispute, apply in this action to force the Department of Commerce (DOC) to disclose confidential information.

Plaintiff brought this action under Section 777(c)(2) of the Tariff Act of 1930 (19 U.S.C. § 1677f(c)(2)) after the DOC rejected its applications for the release of confidential information submitted by foreign steel firms. Thereafter the DOC's application to file with the Court only samples of the confidential information was denied in light of 28 U.S.C. § 2635(c). In addition, all applications for intervention by those whose information is involved have been granted.

In the interim, the DOC has decided to release computer printouts to outside counsel. Consequently, as it now stands, this action is designed to force the DOC to release computer tapes and customer names to plaintiff's outside counsel and to release questionnaire responses, computer tapes, computer printouts and customer names to plaintiff's corporate (in-house) counsel.

The short answer to plaintiff's motion for discovery in aid of this action is that it cannot be granted because discovery is the end of this action, not the means to the end.

This is a special action designed to obtain confidential information for use in an administrative proceeding. In essence it is the separation into a distinct action of discovery disputes which normally arise in the context of larger actions. Some of the intervenors [1] have made the persuasive comparison between this action and the case of *Giza* v. *Secretary of Health, Education, and Welfare,* 628 F. 2d 748 (1st Cir. 1980) where discovery of a doctor's testimony in a Federal action (brought to obtain evidence for use in a State action) was not permitted because the securing of that testimony was one of the objects of the Federal lawsuit.

Defendant and the intervenors generally, have made a persuasive analogy to case law which discourages the granting of preliminary injunctions when to do so would be the equivalent of giving plaintiff a final adjudication. *Selchow & Righter Co.* v. *Western Printing & L. Co.,* 112 F. 2d 439, 431; *see also Anderson* v. *Federal Election Commission,* 634 F. 2d 3,5 (1st Cir. 1980); *Chris-Craft Industries, Inc.* v. *Bangor Punta Corp.,* 426 F. 2d 569, 573 (2nd Cir. 1970); *Dorfmann* v. *Boozer,* 414 F. 2d 1168, 1173, n. 13 (D.C. Cir. 1969); *Associated Dry Goods Corp.* v. *United States,* 1 CIT 306, 515 F. Supp. 775, 780 (1981).

The granting of this discovery motion would have the same tendency and, since it is preferable to reserve complete relief for the final disposition of an action, the motion is inconsistent with that objective.

Other intervenors [2] have correctly pointed to the anomaly of having the right to appeal a final decision in this action obviated by the granting of relief to plaintiff at a discovery stage.

All these difficulties with plaintiff's motion are avoided if the statutes governing this action are given a simple and straightforward reading. The statutes do not contemplate discovery of the con-

[1] Thyssen A.G., Arbed, S.A., Cockerill-Sambre S.A., Klockner-Werke A.G., and N.V. Sidmar.
[2] Sacilor and Dillinger.

fidential material during the course of the action. When 19 U.S.C. § 1677f(c)(2) is read in conjunction with 28 U.S.C. § 2635(c) it becomes clear from the latter that "the confidential status of such information shall be preserved in the civil action." *In camera* examination by the Court is the only examination provided during the pendency of the action.

It is not unreasonable to expect that a party can adequately express its need for this information based on its general understanding of the nature of the information. In this manner the ultimate meaningfulness of the action is preserved.

For the above reasons plaintiff's motion for discovery is denied.

Decisions of the United States Court of International Trade

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *October 12, 1982.*

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the Customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to Customs officials in easily locating cases and tracing important facts.

WILLIAM VON RAAB,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P82/161	Maletz, J. October 6, 1982	International Seaway Trading Corp.	69/9280	Item 700.60 20%	Item 700.70 15%, 13%, 12%, 10%, 9%, or 7.5%	International Seaway Trading Corp. v. U.S. (C.D. 4773)	Philadelphia Footwear
P82/162	Newman, J. October 6, 1982	Uniroyal, Inc., c/o A. N. Deringer, Inc.	80-5-00748	Item 657.25 or 657.40 9.5%	Item 772.65 4%	Uniroyal, Inc., c/o A. N. Deringer, Inc. v. U.S. (Abs. P80/59)	Champlain-Rouses Point (Ogdensburg) Rubber hose, pipe or tubing in various lengths with attached fittings
P82/163	Watson, J. October 13, 1982	Colonial Printing Ink Co.	78-12-02265	406.70 20%	474.26 2%	Agreed statement of facts	New York Ink
P82/164	Newman, J. October 13, 1982	Uniroyal, Inc., c/o A. N. Deringer, Inc.	80-8-01218	Item 657.25 9%	Item 772.65 3.9%	Uniroyal, Inc., c/o A. N. Deringer, Inc. (Abs. P80/59)	Champlain-Rouses Point (Ogdensburg) Rubber hose, pipe or tubing in various lengths with attached fittings

Decisions of the United States Court of International Trade

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLANTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R82/509	Re, C.J. October 6, 1982	Chain Bike Corporation	75-5-01119, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Philadelphia; Los Angeles; Portland Not stated
R82/510	Re, C.J. October 6, 1982	Marubeni America Corp. d/b/a Marubeni-Iida (America)	74-4-01015-S	Export value	Unit values found by appraising customs official, less ocean freight and marine insurance, and without additions for currency fluctuations	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Los Angeles Wearing apparel

DECISION NUMBER	JUDGE & DATE OF DECISION	PLANTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R82/511	Re, C.J. October 6, 1982	YKK Zipper Co., Inc., Yoshida International, Inc.	75-3-00526	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Chicago Not stated
R82/512	Re, C.J. October 13, 1982	James Loudon & Co., Inc. a/c Industries Unlimited	R60/21099	Export value	Net appraised value less 7½ percent thereof, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	San Francisco Japanese plywood
R82/513	Re, C.J. October 13, 1982	Marubeni America Corp.	75-1-00322, etc.	Export value	Unit values found by appraising customs officials less ocean freight and marine insurance, and without additions for currency fluctuation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Chicago Miscellaneous articles

Appeals to U.S. Court of Customs and Appeals

APPEAL 82-36.—BAR BEA TRUCK LEASING CO., BAR-MAR WAREHOUSE CO, INC. *v.* THE UNITED STATES ET AL.; 28 U.S.C. 1581 (i) Residual, Appeal from Slip Op. 82-64 filed on August 11, 1982.

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY, *October 20, 1982.*

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

WILLIAM VON RAAB,
Commissioner of Customs.

In the matter of CERTAIN HIGH PRECISION SOLENOIDS AND COMPONENTS THEREOF	Investigation No. 337-TA-119

Notice of Commission Request for Comments Regarding Proposed Termination of Investigation Based on a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Request for public comment on the proposed termination of the above-captioned investigation based on a settlement agreement.

SUMMARY: The settlement agreement would result in the termination of this investigation. This notice requests comments from the public on the proposed termination.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain high precision solenoids and components thereof. Notice of the institution of the investigation was published in the Federal Register of March 16, 1982 (47 F.R. 11330). Complainant Ledex, Inc., respondents Shindengen Electric Manufacturing Co., Ltd., Densitron Corp., Photo Chemical Products of Calif., Inc., E-M Devices, Dynel Co., Zaslow Sales Co., Inc., and Taylor Marketing and Sales Co., and the Commission investigative attorney have jointly moved to terminate the investigation as to all respondents pursuant to 19 C.F.R. § 210.51(c). On Sep-

tember 17, 1982, the presiding officer recommended that the joint motion be granted (Order No. 11).

SETTLEMENT AGREEMENT: The relevant terms of the public version of the settlement agreement are summarized as follows:

1. In full and complete satisfaction and settlement of all claims by Ledex, Shindengen agrees to pay Ledex a certain sum of money and other good and valuable consideration, receipt of which is acknowledged.

2. Except for Respondents' obligations under the Settlement Agreement, Ledex for itself and its successor remises, releases, and forever discharges Shindegen, Densitron, Photo Chemical, E-M Devices, Zaslow, Taylor and Dynel from any and all liability, claims, demands and/or causes of actions and claims for damages and/or royalties at law or in equity claimed or arising out of or in connection with any claim against Shindegen, Densitron, Photo Chemical, E-M Devices, Zaslow, Taylor, and Dynel.

3. Shindegen, Densitron, Photo Chemical, E-M Devices, Zaslow, Taylor, and Dynel, for themselves and their successors, remise, release and forever discharge Ledex from any and all liability, claims, demand and/or causes of action, and claims for damages in law or in equity, arising out of or in connection with any claims, which against Ledex, Shindegen, Densitron, Photo Chemical, E-M Devices, Zaslow, Taylor and Dynel ever had or now have, and attorneys' fees, including costs.

4. In the event any provision of the Settlement Agreement shall be held illegal or invalid by any duly constituted authority, such illegality or invalidity shall not affect the validity or enforceability of the remaining provisions.

WRITTEN COMMENTS REQUESTED: In order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the effect that the proposed termination of the investigation based on the settlement agreement may have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. All written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the Federal Register. In addition, pursuant to 19 CFR § 210.14(a)(2), the Commission has requested comments from the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service.

ADDITIONAL INFORMATION: The original and 14 copies of all written submissions must be filed with the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Any person desiring to submit a document (or portion thereof) to the Commission in confidence

must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

This notice is published pursuant to section 207.20 of the Commission's Rules of Practice and Procedure (19 CFR § 207.20).

By order of the Commission.

Issued: October 14, 1982.

KENNETH R. MASON,
Secretary.

Investigations Nos. 731-TA-53, 58, 59, 60, 61, 62, 63, 67, 69, 70, 74, 82, 83, 85, and 86 (Final)

CERTAIN CARBON STEEL PRODUCTS FROM BELGIUM, FRANCE, ITALY, ROMANIA, THE UNITED KINGDOM, AND THE FEDERAL REPUBLIC OF GERMANY

AGENCY: United States International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigations.

EFFECTIVE DATE: October 7, 1982.

SUMMARY: As a result of the extension by the United States Department of Commerce of its investigations involving certain carbon steel products from Belgium, France, Italy, Romania, the United Kingdom, and the Federal Republic of Germany (47 FR 42603, September 28, 1982), the United States International Trade Commission hereby gives notice that its hearing scheduled for November 9, 1982, in connection with the subject investigations (47 FR 38646, September 1, 1982) is rescheduled for January 10, 1983. Other dates specified in 47 FR 38646, such as those for the prehearing conference and for the submission of briefs, are also rescheduled as indicated below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger (202-523-0312) or Mr. Daniel Leahy (202-523-1369), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On February 25, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly dumped imports of the subject carbon steel products from Belgium, France, Italy, Romania, the United Kingdom, and West Germany. The pre-

liminary investigations were instituted in response to petitions filed on January 11, 1982, by seven U.S. steel producers. The Department of Commerce will make its final dumping determinations in these cases on or before December 29, 1982. The Commission must make its final injury determinations in the investigations within 45 days of the date of Commerce's final subsidy determinations or by February 11, 1983 (19 CFR § 207.25). A public version of the staff report containing preliminary findings of fact will be placed in the public record on December 23, 1982, pursuant to section 207.21 of the Commission's Rules of Practice and Procedure (19 CFR § 207.21).

Hearing.—The Commission will hold its hearing in connection with these investigations beginning at 10:00 a.m., e.s.t., on January 10, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 20, 1982. All persons desiring to appear at the hearing and make oral presentations may file prehearing briefs and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on December 23, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs must be filed on or before January 5, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's Rules of Practice and Procedure (19 CFR § 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to new information. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with rule 207.22 (19 CFR § 207.22). Posthearing briefs must conform with the provisions of rule 207.24 (19 CFR § 207.24) and must be submitted not later than the close of business on January 17, 1983.

Written submissions.—Any person may submit to the Commission a written statement of information pertinent to the subject of these investigations. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission on or before January 17, 1983. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR § 201.6).

Any party submitting a document in connection with these investigations shall, in addition to complying with section 201.8 of the

Commission's rules (19 CFR § 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR § 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR § 207, 44 FR 76457 as amended in 47 FR 6190 and 47 FR 12792) and part 201, subparts A through E (19 CFR § 201).

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0375.

By order of the Commission.

Issued: October 13, 1982.

KENNETH R. MASON,
Secretary,

In the matter of CERTAIN HAND-OPERATED, GAS-OPERATED WELDING, CUTTING AND HEATING EQUIPMENT AND COMPONENT PARTS THEREOF	Investigation No. 337-TA-132

Order No. 5: Order Redesignating Presiding Officer

For reasons of administrative management and judicial economy, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Donald K. Duvall and designate Administrative Law Judge Janet D. Saxon as Presiding Officer in the above-styled investigation, effective this date.

Accordingly, the Preliminary Conference set for October 25, 1982 by Order No. 4, issued on October 7, 1982, is hereby cancelled.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: October 13, 1982.

Judge DONALD K. DUVALL,
Presiding Officer.

Investigation 701-TA-195 and 196 (Preliminary)

STAINLESS STEEL SHEET AND STRIP AND STAINLESS STEEL PLATE FROM THE UNITED KINGDOM

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation Nos. 701-TA-195 and 196 (Preliminary) to determine, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports from the United Kingdom of:

Stainless steel sheet, provided for in items 607.7610, 607.9010 and 607.9020 of the Tariff Schedules of the United States Annotated (TSUSA), and stainless steel strip (over 0.01 inch in thickness), provided for in TSUSA items 608.4300 and 608.5700 (investigation No. 701-TA-195 (Preliminary));

Stainless steel plate, provided for in TSUSA items 607.7605 and 607.9005 (investigation No. 701-TA-196 (Preliminary)).

EFFECTIVE DATE: October 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick J. Magrath, Office of Industries, U.S. International Trade Commission; telephone 202-523-0341.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted following receipt of a petition filed by members of the Tool and Stainless Steel Industry Committee and the United Steelworkers of America. The Commission must make its determination in these investigations within 45 days after the date of receipt of petition, or by November 22, 1982 (19 CFR § 207.17 (1981)). The investigations will be subject to the provisions of part 207 (1981), as amended by 47 F.R. 6190 (Feb. 10, 1982)), and particularly subpart B thereof.

Written submissions.—Any person may submit to the Commission on or before November 3, 1982, a written statement of information pertinent to the subject matter of these investigations. A signed original and fourteen copies of such statements must be submitted (19 CFR § 201.8 (1981), as amended by 47 F.R. 6190 (Feb. 10, 1982)).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the require-

ments of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR Part § 201.6). All written submissions, except for confidential business data will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., e.s.t., on November 1, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigations, Mr. Jim McClure, telephone 202–523–0439, not later than October 27, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For futher information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR § 207), and part 201, subparts A through E (19 CFR § 201), 47 FR 6182, February 10, 1982 and 47 FR 13791, April 1, 1982. Further information concerning the conduct of the conference will be provided by Mr. McClure.

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR § 207.12 (1981)).

By order of the Commission.

Issued: October 12, 1982.

KENNETH R. MASON,
Secretary.

Investigation No. 701–TA–198 (Preliminary)

SOFTWOOD SHAKES AND SHINGLES FROM CANADA

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: October 7, 1982.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of an investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of softwood shakes and shingles, provided for in item 200.85 of the

Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Canada.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Furlow (202-724-0068), Chief of the Agriculture, Fisheries, and Forest Products Division, Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed October 7, 1982, on behalf of the United States Coalition for Fair Canadian Lumber Imports, a group composed of 8 trade associations and more than 350 U.S. producers of softwood lumber products. A copy of this petition is available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or by November 22, 1982 (19 CFR § 207.17). Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11, as amended by 47 F.R. 6189, February 10, 1982), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR § 201.8, as amended by 47 F.R. 6188, February 10, 1982, and 47 F.R. 13791, April 1, 1982), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR § 201.16(b), as amended by 47 F.R. 33682, August 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before November 10, 1982, a written statement of information pertinent to the subject matter of this investigation (19 CFR § 207.15, as amended by 47 F.R. 6190, February 10, 1982). A signed original and fourteen (14) copies of such statements must be

submitted (19 CFR § 201.8, as amended by 47 F.R. 6188, February 10, 1982, and 47 F.R. 13791, April 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on November 5, 1982, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisor for the investigation, Mr. Edward Furlow, telephone 202-724-0068, not later than October 29, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, as amended by 47 F.R. 6182, February 10, 1982, and 47 F.R. 33682, August 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 F.R. 6182, February 10, 1982, 47 F.R. 13791, April 1, 1982, and 47 F.R. 33682, August 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Furlow.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: October 12, 1982.

KENNETH R. MASON,
Secretary.

Investigation No. 701-TA-197 (Preliminary)

SOFTWOOD LUMBER FROM CANADA

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: October 7, 1982.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of an investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) to deter-

mine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of softwood lumber, provided for in items 202.03 through 202.30, inclusive, of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Canada.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Furlow (202-724-0068), Chief of the Agriculture, Fisheries, and Forest Products Division, Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed October 7, 1982, on behalf of the United States Coalition for Fair Canadian Lumber Imports, a group composed of 8 trade associations and more than 350 U.S. producers of softwood lumber products. A copy of this petition is available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or by November 22, 1982 (19 CFR § 207.17). Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11, as amended by 47 F.R. 6189, February 10, 1982), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR § 201.8, as amended by 47 F.R. 6188, February 10, 1982, and 47 F.R. 13791, April 1, 1982), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR § 201.16(b), as amended by 47 F.R. 33682, August 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before November 9, 1982, a written statement of information pertinent to the subject matter of this investigation (19 CFR § 207.15, as amended by 47 F.R. 6190, February 10, 1982). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR § 201.8, as amended by 47 F.R. 6188, February 10, 1982, and 47 F.R. 13791, April 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be treated as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on November 3, 1982, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisor for the investigation, Mr. Edward Furlow, telephone 202–724–0068, not later than October 29, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), as amended by 47 F.R. 6182, February 10, 1982, and 47 F.R. 33682, August 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 F.R. 6182, February 10, 1982, 47 F.R. 13791, April 1, 1982, and 47 F.R. 33682, August 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Furlow.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: October 12, 1982.

KENNETH R. MASON,
Secretary.

In the matter of
CERTAIN CUBE PUZZLES } Investigation No. 337–TA–112

COMMISSION HEARING ON THE PRESIDING OFFICER'S RECOMMENDATION AND ON RELIEF, BONDING, AND THE PUBLIC INTEREST, AND THE SCHEDULE FOR FILING WRITTEN SUBMISSIONS

AGENCY: U.S. International Trade Commission.

ACTION: The scheduling of a public hearing and written submissions in investigation No. 337-TA-112, Certain Cube Puzzles.

Notice is hereby given that the presiding officer has issued a recommended determination that there is a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the unauthorized importation into and sale in the United States of certain cube puzzles that are the subject of the Commission's investigation. Accordingly, the recommended determination and the record of the hearing have been certified to the Commission for review and a Commission determination. Interested persons may obtain copies of the nonconfidential version of the presiding officer's recommendation (and all other public documents on the record of the investigation) by contacting the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 161, Washington, D.C. 20436, telephone 202-523-0161.

COMMISSION HEARING: The Commission will hold a public hearing on November 18, 1982, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m. The hearing will be divided into two parts. First, the Commission will hear oral arguments on the presiding officer's recommended determination that a violation of section 337 of the Tariff Act of 1930 exists. Second, the Commission will hear presentations concerning appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond during the Presidential review period in the event that the Commission determines that there is a violation of section 337 and that relief should be granted. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties.

ORAL ARGUMENTS: Any party to the Commission's investigation or any interested Government agency may present an oral argument concerning the presiding officer's recommended determination. That portion of a party's or an agency's total time allocated to oral argument may be used in any way the party or agency making argument sees fit, i.e., a portion of the time may be reserved for rebuttal or devoted to summation. The oral arguments will be held in the following order: complainant, respondents, Government agencies, and the Commission investigative attorney. Any rebuttals will be held in this order: respondents, complainant, Government agencies, and the Commission investigative attorney. Persons making oral argument are reminded that such argument must be based upon the evidentiary record certified to the Commission by the presiding officer.

ORAL PRESENTATIONS OF RELIEF, BONDING, AND THE PUBLIC INTEREST: Following the oral arguments on the presiding officer's recommendation, parties to the investigation, Govern-

ment agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. This portion of the hearing is quasi-legislative in nature; presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer, and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainant, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents' being required to cease and desist from engaging in unfair methods of competition or unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

TIME LIMIT FOR ORAL ARGUMENT AND ORAL PRESENTATION: Complainant, respondents (taken collectively), the Commission investigative attorney, and Government agencies will be limited to a total of 30 minutes (exclusive of time consumed by questions from the Commission or its advisory staff) for making both oral argument on violation and oral presentations on remedy, bonding, and the public interest. Persons making only oral presentations on remedy, bonding, and the public interest will be limited to 10 minutes (exclusive of time consumed by questions from the Commission and its advisory staff). The Commission may in its discretion expand the aforementioned time limits upon receipt of a timely request to do so.

WRITTEN SUBMISSIONS: In order to give greater focus to the hearing, the parties to the investigation and interested Government agencies are encouraged to file briefs on the issues of violation (to the extent they have not already briefed that issue in their written exceptions to the presiding officer's recommended determination), remedy, bonding, and the public interest. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, bonding, and the public interest. Written submissions on the question of violation must be filed not later than the close of business on October 25, 1982; written submissions on the questions of remedy, bonding, and the public interest must be filed not later than the close of business on November 1, 1982. During the course of the hearing, the parties may be asked to file posthearing briefs.

NOTICE OF APPEARANCE: Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by November 12, 1982.

ADDITIONAL INFORMATION: The original and 14 true copies of all briefs on violation must be filed with the Office of the Secretary not later than October 25, 1982; the original copy and 14 true copies of all briefs on remedy, bonding, and the public interest must be filed with the Office of the Secretary not later than November 1, 1982. Any person desiring to discuss confidential information or to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents or arguments containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the Federal Register of December 29, 1981, 46 F.R. 62964.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0499.

By order of the Commission.

Issued: October 8, 1982.

KENNETH R. MASON,
Secretary.

In the matter of
CERTAIN BRAIDING MACHINES } Investigation No. 337-TA-130

CORRECTION TO NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337; correction.

SUMMARY: The Commission is amending the notice of investigation in the above-captioned case to clarify that the scope of the investigation is to determine whether there is reason to believe that there is a violation of section 337(a) of the Tariff Act of 1930 as well as to determine whether there is a violation of section 337(a).

EFFECTIVE DATE: September 24, 1982.

SUPPLEMENTARY INFORMATION: On September 24, 1982, the Commission determined to institute an investigation into allegations that there is a violation of section 337(a) of the Tariff Act of 1930 by reason of the importation into or sale in the United States of certain braiding machines. Notice thereof was published in the Federal Register of September 29, 1982 (47 F.R. 42845). In that notice, under "Scope of Investigation," the Commission hereby amends paragraph (1) to read as follows:

> (1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 or whether there is reason to believe that there is a violation of subsection (a) of section 337 in the unlawful importation of certain braiding machines into the United States, or in their sale, by reason by alleged common-law-trademark infringement, false designation of origin, and passing off, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

By order of the Commission.

Issued: October 8, 1982.

KENNETH R. MASON,
Secretary.

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